

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



WILLIAM H. COLTON, III,

Plaintiff,

v.

21-CV-467 (JLS) (LGF)

ROBERT J. FULLER, TRF
DISTRIBUTION LLC, TROYER
MANUFACTURING LLC,

Defendants.

DECISION AND ORDER

Plaintiff William H. Colton, III, commenced this action on April 5, 2021. Dkt.

1. After settlement efforts unraveled, counsel for Defendants Robert J. Fuller, TRF Distribution LLC, and Troyer Manufacturing LLC was allowed to withdraw. *See* Dkt. 52. United States Magistrate Judge Leslie G. Foschio¹ ordered Defendants to obtain counsel by June 8, 2023. Dkt. 54. To date, Defendants have not obtained counsel as ordered by Judge Foschio.

On August 31, 2023, Judge Foschio issued a Report and Recommendation (R&R), recommending that this Court direct an entry of default, pursuant to Federal Rule of Civil Procedure 55(a), against Defendants TRF Distribution LLC and Troyer Manufacturing LLC. *See* Dkt. 63.

¹ This Court referred the case to Judge Foschio under 28 U.S.C. §§ 636(b)(1)(A), (B), and (C) to hear and determine, and to report and recommend on, all matters in this case. Dkt. 5.

No party objected to the R&R, and the time to do so has expired. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2). A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge's recommendation to which a party objects. *See* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985).

Though not required to do so here, this Court nevertheless reviewed Judge Foschio's R&R. Based on that review, and absent any objections, the Court accepts the R&R (Dkt. 63).

For the reasons stated above and in the R&R, the Court directs the Clerk of Court to enter default against Defendants TRF Distribution LLC and Troyer Manufacturing LLC. The Court refers the case back to Judge Foschio for further proceedings, consistent with the referral order at Dkt. 5.

SO ORDERED.

Dated: September 21, 2023
Buffalo, New York



JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE